

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.

-----X
LYDIA HERBERT,

Plaintiff,

Plaintiff designates
NEW YORK COUNTY as the
place of trial

- against -

CITY OF NEW YORK and
NEW YORK CITY DEPARTMENT
OF EDUCATION,

Defendants.

The basis of venue is
Defendant's Place of
Business**Summons**-----X
To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your Verified Answer on the undersigned attorneys, Hach Rose Schirripa & Cheverie LLP, representing Plaintiff, within twenty (20) days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York).

Please take notice that this action is based on a tort cause of action, that plaintiff seeks money damages for personal injuries and that in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Defendants' addresses:

The City of New York
100 Church Street
New York, NY 10007**New York City Department of Education**
52 Chambers Street, Room 320
New York, NY 10007Dated: New York, New York
December 5, 2019

Respectfully Submitted,

HACH ROSE SCHIRIPPA & CHEVERIE, LLP

MICHAEL ROSE, ESQ.
HILLARY M. NAPPI, ESQ.
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Attorneys for Plaintiff Lydia Herbert

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
LYDIA HERBERT,

Index No.

Plaintiff,

VERIFIED COMPLAINT

- against -

JURY TRIAL DEMANDEDCITY OF NEW YORK and NEW YORK CITY
DEPARTMENT OF EDUCATION,Defendants.
-----X

Plaintiff Lydia Herbert by her attorneys Hach Rose Schirripa & Cheverie LLP, complaining of the respective Defendants, respectfully alleges, upon information and belief and states as follows:

1. This is a revival action brought pursuant to C.P.L.R. § 214-g, the New York Child Victims Act (the “CVA”). The CVA opened a historic one-year one-time window for victims and survivors of childhood sexual abuse in the State of New York to pursue lapsed claims. Prior to the passage of the CVA, each of Plaintiff’s claims were time barred.

2. Lydia Herbert attended James Monroe High School (the “High School”) from 1976 through 1981. The High School is a public school operated by New York City Department of Education under the oversight of the City of New York.

3. When she was a minor, Plaintiff was sexually abused by Harry Singer, Ira Scher, and a chemistry teacher nicknamed “Sage” who were employed by the City of New York and the Department of Education as teachers. While in the course of their employment at James Monroe

High School, all three of these adult men sexually abused Plaintiff. Plaintiff's life was forever changed as a result of the Defendants' negligence conduct described herein.

4. As a result of the passage of the CVA, Plaintiff can now pursue restorative justice. Plaintiff brings suit to vindicate his rights.

PARTIES

5. Lydia Herbert ("Plaintiff") is an individual residing in New Mexico. At all times relevant hereto, Plaintiff was a resident of the Bronx County.

6. At all times relevant, and to the present day, Defendant City of New York (the "City") was and is a municipal corporation which maintains its principal place of business at 100 Church Street, New York, NY 10007, in New York County.

7. At all times relevant, and to the present day, Defendant New York City Department of Education ("Department of Education") was and is a municipal corporation and local educational agency which maintains its principal place of business at 52 Chambers Street, New York, NY 10007, in New York County.

8. At all times relevant, the City owned, operated, maintained and controlled James Monroe High School (the "High School" or the "Premises") located at 1300 Boynton Avenue, at East 172nd Street, in Bronx County.¹

¹ Upon information and belief, the original building now houses seven smaller high schools: the Monroe Academy for Visual Arts and Design (H.S. 692), the Monroe Academy for Business and Law (H.S. 690), the High School of World Cultures (H.S. 550), The Metropolitan Soundview Highschool (X521), Pan American International High School (X388), Mott Hall V (X242) and the Cinema School (which first opened its doors for the 2009–2010 school year). The building also used to house an elementary school, The Bronx Little School.

9. The City and the Department of Education are collectively referred to hereinafter as “Defendants.”

Relevant Non-Parties

10. Harry Singer (“Singer”) is not a party to this action. However, Singer is the individual who committed the acts described herein.

11. At all times relevant hereto, Singer was employed as a teacher by the Defendants on the Premises.

12. At all times relevant hereto, Singer was an agent of the Defendants.

13. Ira Scher (“Scher”) is not a party to this action. However, Scher is the individual who committed the acts described herein.

14. At all times relevant hereto, Scher was employed as a teacher by the Defendants on the Premises.

15. At all times relevant hereto, Scher was an agent of the Defendants.

16. “Sage” is a chemistry teacher who taught at the High School from 1976 through 1981. Plaintiff cannot recall his full name, but “Sage” is what he went by.

17. “Sage” is not a party to this action. However, “Sage” is the individual who committed the acts described herein.

18. At all times relevant hereto, “Sage” was employed as a teacher by the Defendants on the Premises.

19. At all times relevant hereto, “Sage” was an agent of the Defendants.

20. At times herein, Singer, Scher and “Sage” may be collectively referred to as “Plaintiff’s abusers.”

JURISDICTION AND VENUE

21. This Court has personal jurisdiction over the claims asserted herein pursuant to C.P.L.R. §§ 301 and 302, in that the one or more Defendants transact business within the State of New York.

22. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

23. Venue for this action is proper in the County of New York pursuant to C.P.L.R. §503 in that Defendants transact business within the County of New York.

NOTICE OF CLAIM

24. Because Defendants are municipalities, Plaintiff would have been required to file and serve a "Notice of Claim" upon Defendants.

25. However, the CVA has extinguished that requirement and Plaintiff's failure to file and serve a Notice of Claim does not have any effect on her claim.

FACTS COMMON TO ALL CAUSES OF ACTION

26. At all times relevant, and to the present day, the City was and is a municipal corporation organized and existing under and by virtue of the State of New York.

27. At all times relevant, and to the present day, Department of Education was and is a municipal corporation organized and existing under and by virtue of the State of New York.

28. At all times relevant, and to the present day, the City owned the Department of Education.

29. At all times relevant, and to the present day, the City, its agents, servants and/or employees operated the Department of Education.

30. At all times relevant, and to the present day, the City, its agents, servants and/or employees managed the Department of Education.

31. At all times relevant, and to the present day, the City, its agents, servants and/or employees maintained the Department of Education.

32. At all times relevant, and to the present day, the City, its agents, servants and/or employees controlled the Department of Education.

33. At all times relevant, and to the present day, the City, its agents, servants and/or employees supervised the Department of Education.

34. At all times relevant, and to the present day, the City directed the operations of the Department of Education.

35. At all times relevant, and to the present day, the City controlled the operations of the Department of Education.

36. At all times relevant, and to the present day, the Department of Education was an agency of the City.

37. At all times relevant, and to the present day, the City through the Department of Education operates a Public School District providing education services for the children of New York City and the surrounding boroughs.

38. At all times relevant, and to the present day, James Monroe High School was and is a public school within the City.

39. At all times relevant, and to the present day, Defendants owned James Monroe High School.

40. At all times relevant, and to the present day, Defendants, its agents, servants and or employees, operated James Monroe High School, its departments, functions, programs and activities.

41. At all times relevant, and to the present day, Defendants, its agents, servants and or employees, controlled, supervised, managed, and directed James Monroe High School, its departments, functions, programs and activities.

Plaintiff Meets Singer, Scher and "Sage" Who Groom and Then Sexually Assault Her

42. Plaintiff was born in April of 1963.

43. Plaintiff's mother married Plaintiff's step-father and soon thereafter, Plaintiff's step-father sexually abused her every night for three years.

44. In or around 1976, Plaintiff started High School at James Monroe High School.

45. In or around the time Plaintiff started High School, Plaintiff disclosed her sexual abuse to high school officials and as a result, Plaintiff was removed from her childhood home for a period of time. Plaintiff's foster home was equally unpleasant.

46. During the time Plaintiff first started to attend the High School, she was extremely vulnerable and distraught by the events of her home life.

47. As a way of joining activities and being able to spend less time away from home, Plaintiff joined the High School's track team.

48. In 1976, when Plaintiff was 13 years old, she met Singer. Singer was Plaintiff's science teacher and coach of the track team.

49. As the track team's coach, Singer had an office where the track team kept supplies and where track team members would change before and after practices. This office was located on the Premises.

50. Many nights after track practice ended or after track meets, Singer would take a group of students out for pizza or ice-cream and then he would drive those students home.

51. At first, Plaintiff appreciated when Singer would take the group of students out after the track practices and meets, because it provided her with an alternative place to be than her home.

52. Eventually, Singer developed a pattern of routinely dropping Plaintiff off at her home after all the other children had been dropped off. Again, at first, Plaintiff appreciated the delay in having to go home.

53. During these times alone, Singer and Plaintiff would frequently talk about a host of topics including Plaintiff's troubled home life. In due course, Plaintiff discussed her repeatedly sexual abuse to Singer.

54. One day evening in 1976, during one of their moments alone in the car, Singer began to make sexual overtures. Plaintiff was confused.

55. Singer told Plaintiff to keep what they discussed, and the sexual overtures, a secret because, "no one would understand" their "relationship."

56. Gradually, throughout the course of 1976, Singer pushed the boundaries with Plaintiff until he coerced her to perform oral sex on him. Plaintiff was confused because Singer had a colostomy bag and it was the first time she had seen a colostomy bag. Eventually, Singer persuaded Plaintiff to engage in vaginal intercourse when Plaintiff was just 14 years old.

57. For the entirety of Plaintiff's four years at the High School, Singer would engage in oral sex and vaginal intercourse with Plaintiff on a regular basis in various locations including but not limited to the track team's office, his home, and various locations on the Premises.

58. One morning on her way to school, in 1977, Plaintiff was plucked off the street and raped by a stranger.

59. Before Plaintiff was 15 years old, she had been sexually abused by three different adults and her only reference for sex or an intimate relationship was informed by these humiliating, demeaning, and immoral experiences.

60. Upon information and belief, Singer was friendly with another teacher who was referred to as "Sage."

61. "Sage" taught chemistry and was Plaintiff's chemistry teacher.

62. "Sage" and Singer worked together in the science department at the High School and as such frequently collaborated on typical issues the science department faced.

63. Upon information and belief, "Sage" and Singer were friends who had lunch together.

64. Upon information and belief, Scher and Singer were friends.

65. Upon information and belief Singer promoted the idea of Plaintiff being available for sexual contact among other teachers and Singer encouraged Scher and "Sage" to sexually abuse Plaintiff.

66. Scher was a teacher at the High School and taught Spanish. Scher was not Plaintiff's teacher but he came to know because she was Hispanic and Scher frequently spoke with Plaintiff's friends.

67. Scher sought out Plaintiff and would frequently converse with her in Spanish. Scher also regularly worked with the track team and filled in for Singer as a coach, when Singer was unavailable.

68. Scher actively tried to befriend Plaintiff. He would often took her out for meals.

69. At first, Plaintiff was grateful for Scher's attention because it provided yet another opportunity to be away from her troubled home life.

70. After Scher had built trust with Plaintiff and while Singer was engaging in sexual relations with Plaintiff, when Plaintiff was 16 years old, Scher initiated sexual contact with Plaintiff by kissing her, touching her breasts and vagina and eventually coercing Plaintiff to engage in preforming oral sex and having vaginal intercourse.

71. Scher would engage in oral sex and vaginal intercourse with Plaintiff on a regular basis in various locations including but not limited to the track team's office, his car, his home and various locations on the Premises.

72. On one occasion, Scher asked Plaintiff if she had ever tried cocaine. When she responded in the negative, he proceeded to give her cocaine to try. After Plaintiff tried cocaine, Scher initiated vaginal intercourse with Plaintiff. Scher repeatedly approached Plaintiff about cocaine.

73. Scher tried to coerce Plaintiff to remain silent by taking her for "day trips" on weekends as to give her a way out of her troubled home. Scher would take Plaintiff on "dates" like a picnic, he would inevitably initiate sexual contact on these dates.

74. Scher stopped sexually abusing Plaintiff when he became engaged and could no longer take her on "dates."

75. One day, during her senior year of high school, and while Singer was still engaging in frequent sexual abuse of Plaintiff, Plaintiff was approached by her chemistry teacher “Sage” after class.

76. “Sage” took Plaintiff to the chemistry “vault” on the Premises and closed the door.

77. “Sage” said degradingly that he heard that Plaintiff “liked older men” and unceremoniously turned Plaintiff around, inserted his erect penis in her vagina, and proceeded to rape her. When “Sage” was finished, he simply walked out of the vault.

78. Singer, Scher, and “Sage” all behaved in a blatant manner which should have caused other employees at the High School to question their behavior toward Plaintiff and other students those employees had a duty to protect.

79. At no time during the forced sexual activity described herein did Plaintiff provide consent to engage in these acts with her abusers, nor was Plaintiff legally able to consent.

80. At all times, the conduct of Singer, Scher, and “Sage” as alleged herein violated New York State’s Penal Code.

81. As a direct result of the Defendants’ employees’ conduct described herein, Plaintiff has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
VICARIOUS LIABILITY IN *RESPONDEAT SUPERIOR*

82. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “81” as if fully set forth herein.

83. Defendants herein were and are vicariously liable in *respondeat superior* to Plaintiff for Singer, “Sage” and Scher’s foregoing unlawful conduct in that said acts were reasonably foreseeable by the Defendants and occurred within the general scope of their employment.

84. Defendants herein were and are vicariously liable in *respondeat superior* to Plaintiff for Singer, “Sage” and Scher’s foregoing unlawful conduct for given prior instances of similar conduct of Singer, “Sage” and Scher’s and other employees, agents and/or servants, as well as Defendants’ failure to respond accordingly, such unlawful conduct was reasonably foreseeable, and occurred within the general scope of the Defendants’ business in that due to prior known instances of similar conduct on part of Singer, “Sage” and Scher, the herein actions of same could have been reasonably foreseen by the Defendants; and therefore, the Defendants assumed a relationship requiring it to be responsible for Plaintiff’s safety and protection.

85. As a result of the foregoing, Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to her emotional and psychological well being.

86. By reason of the foregoing, the Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

87. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of C.P.L.R. § 1601 by reason of one or more of the exemptions provided under C.P.L.R. § 1602, including but not limited to C.P.L.R. §§ 1602(2), 1602(7).

SECOND CAUSE OF ACTION
NEGLIGENCE IN HIRING, RETENTION AND SUPERVISION

88. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “81” as if fully set forth herein.

89. Defendants negligently hired and/or retained its employees Singer, “Sage” and Scher, with knowledge of Singer, “Sage” and Scher’s propensities for the type of behavior which resulted in Plaintiff’s injuries in this action.

90. Defendants negligently placed its employees, Singer, “Sage” and Scher, in a position to cause foreseeable harm, which most probably would not have occurred had the employer taken reasonable care in the hiring of employees.

91. Defendants negligently hired and/or retained its employees, Singer, “Sage” and Scher, negligently placed its employees, Singer, “Sage” and Scher, in a position to cause foreseeable harm, which Plaintiff would not have been subjected to, had Defendants taken reasonable care in supervising or retaining the employee, Singer, “Sage” and Scher.

92. Defendants knew or should have known of its employees Singer, “Sage” and Scher’s propensities for the conduct that caused Plaintiff’s injuries.

93. Defendants negligently failed to properly train and/or supervise its employees Singer, “Sage” and Scher.

94. That as a result of the foregoing Plaintiff was seriously and permanently injured.

95. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of its employees.

96. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants and/or their agents, servants, employees, without any negligence on the part of the Plaintiff contributing thereto.

97. By reason of the foregoing, the respective Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

THIRD CAUSE OF ACTION
INADEQUATE SECURITY

98. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “81” as if fully set forth herein.

99. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises.

100. That Defendants negligently failed to provide adequate security to Plaintiff while Plaintiff was lawfully within the Premises and while Defendant had knowledge of its employees, Singer, “Sage” and Scher for the type of behavior which resulted in Plaintiff’s injuries in this action.

101. That Defendants negligently failed to safeguard Plaintiff, a minor.

102. That Defendants knew or should have known of its its employees, Singer, “Sage” and Scher’s propensities for the conduct that caused Plaintiff’s injuries and negligently failed to take reasonable measures to protect and provide security to the Plaintiff.

103. That as a result of the foregoing Plaintiff was seriously and permanently injured.

104. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and employees within the Premises.

105. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants without any negligence on the part of the Plaintiff contributing thereto.

106. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

FOURTH CAUSE OF ACTION
NEGLIGENCE

107. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "81" as if fully set forth herein.

108. During the time of the sexual abuse alleged herein, Defendants owned, operated, managed, maintained, controlled, secured and supervised the Premises and employees within the Premises.

109. During the time of the sexual abuse alleged herein, Defendants as the owners, operators, supervisors and managers of the Premises and the employees within the Premises had a duty to protect the Plaintiff from injury while the Plaintiff was lawfully within the Premises.

110. During the time of the sexual abuse alleged herein, Defendants while lawfully upon the Premises, Plaintiff was caused to be repeatedly injured solely and wholly due to the negligence and carelessness of the Defendants.

111. That solely and wholly by reason of the foregoing, Plaintiff was injured.

112. That said occurrence and the resulting injuries to Plaintiff were caused solely and wholly by reason of the negligence and carelessness of the Defendants in the ownership, operation, management, maintenance, control, security and supervision of the Premises and the employees within the Premises.

113. That as a result of the foregoing, Plaintiff was injured solely and wholly as a result of the negligence, carelessness and recklessness of the Defendants, without any negligence on the part of the plaintiff contributing thereto.

114. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and punitive damages, together with interests and costs.

FIFTH CAUSE OF ACTION
BREACH OF DUTY IN LOCO PARENTIS

115. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "81" as if fully set forth herein.

116. While Plaintiff was a minor, Plaintiff was entrusted by her parents to the control and supervision of Defendants' and its employees, Singer, "Sage" and Scher. During the times that Plaintiff was entrusted to Singer, "Sage" and Scher, its employees, Singer, "Sage" and Scher were under the supervision and control of Defendants. The respective Defendants owe and owed a duty to children entrusted to them to act in loco parentis and to prevent foreseeable injuries.

117. At all times material hereto, the respective Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

118. As a direct result of the respective Defendants' breach of duty, Plaintiff has suffered the injuries and damages described herein.

119. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

120. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of C.P.L.R. § 1601 by reason of one or more of the exemptions provided under C.P.L.R. § 1602, including but not limited to C.P.L.R. §§ 1602(2), 1602(7).

**SIXTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

121. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “81” as if fully set forth herein.

122. While Plaintiff was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendants and its employees, Singer, “Sage” and Scher. During the times that Plaintiff was entrusted to Singer, “Sage” and Scher, Singer, “Sage” and Scher were under the supervision and control of Defendants.

123. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants, this relationship is based on the entrustment of the Plaintiff while she was a minor child to the care and supervision of the Defendants and its employees, Singer, “Sage” and Scher. This entrustment of the Plaintiff to the care and supervision Defendants’ employees, Singer, “Sage” and Scher, while Plaintiff was a minor child, required the Defendants to assume a fiduciary relationship and to act in the best interests of the Plaintiff and protect Plaintiff due to infancy and vulnerability.

124. Pursuant to their fiduciary relationship, Defendants were entrusted with the well-being, care, and safety of Plaintiff.

125. Pursuant to their fiduciary relationship, Defendants assumed a duty to act in the best interests of Plaintiff.

126. Defendants breached their fiduciary duties to Plaintiff.

127. At all times material hereto, the respective Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

128. As a direct result of the respective Defendants' breach of fiduciary duty, Plaintiff has suffered the injuries and damages described herein.

129. By reason of the foregoing, the respective Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

130. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of C.P.L.R. § 1601 by reason of one or more of the exemptions provided under C.P.L.R. § 1602, including but not limited to C.P.L.R. §§ 1602(2), 1602(7).

**SEVENTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY**

131. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "81" as if fully set forth herein.

132. While Plaintiff was a minor, Plaintiff was entrusted by her parents to the control and supervision of Defendants and its employees, Singer, "Sage" and Scher, for the purposes of, inter alia, providing Plaintiff with a safe environment in which to learn and grow. There existed a non-delegable duty of trust between Plaintiff and Defendants.

133. Defendants were in the best position to prevent its employees, Singer, "Sage" and Scher's sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take

prompt steps to provide that Plaintiff received timely therapy to address the harm Plaintiff suffered resulting from its employees, Singer, “Sage” and Scher’s sexual abuse of Plaintiff. Such prompt steps would have mitigated the extent of lifetime suffering Plaintiff has had to endure.

134. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendants breached its non-delegable duty to Plaintiff.

135. At all material times hereto, Singer, “Sage” and Scher were under the supervision, employ, direction and/or control of Defendants.

136. As a direct result of the respective Defendants’ breach of non-delegable duty, Plaintiff has suffered the injuries and damages described herein.

137. By reason of the foregoing, the respective Defendants’ are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

138. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of C.P.L.R. § 1601 by reason of one or more of the exemptions provided under C.P.L.R. § 1602, including but not limited to C.P.L.R. §§ 1602(2), 1602(7).

EIGHTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

139. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs “1” through “82” as if fully set forth herein.

140. The Defendants herein engaged in reckless, extreme, and outrageous conduct by providing its employees, Singer, “Sage” and Scher with access to children, including Plaintiff, despite knowing that he would likely use his position to groom and sexually abuse them, including Plaintiff.

141. The Defendants' misconduct was so shocking and outrageous that it exceeds the reasonable bounds of decency as measured by what the average member of the community would tolerate and demonstrates an utter disregard by them of the consequences that would follow.

142. As a result of this reckless, extreme, and outrageous conduct, Singer, "Sage" and Scher gained access to Plaintiff and sexually assaulted and abused her.

143. Defendants knew that this this reckless, extreme, and outrageous conduct would inflict severe emotional and psychological distress, including personal physical injury, on others, and Plaintiff did in fact suffer severe emotional and psychological distress and personal physical injury as a result, including severe mental anguish, humiliation and emotional physical distress.

144. By reason of the foregoing, Defendant is are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

145. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of CPLR § 1601 by reason of one or more of the exemptions provided under CPLR § 1602, including but not limited to CPLR §§ 1602(2), 1602(7).

NINTH CAUSE OF ACTION
VICARIOUS LIABILITY PREMISED UPON APPARENT AUTHORITY

146. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs "1" through "82" as if fully set forth herein.

147. Defendants were and are vicariously liable to the Plaintiff premises upon apparent authority in that the Defendants created an appearance of authority on the part of its employees, Singer, "Sage" and Scher upon which, the Plaintiff reasonably relief, thereby enabling its employees, Singer, "Sage" and Scher to successfully perpetrate misconduct against the Plaintiff.

148. As a result of the foregoing the Plaintiff has been caused to suffer and sustain severe and potentially permanent personal injuries, including severe injury and potentially permanent injury to her emotional and psychological well-being.

149. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and for punitive damages, together with interests and costs.

150. Per CPLR § 1603, the foregoing cause of action is exempt from the operation of C.P.L.R. § 1601 by reason of one or more of the exemptions provided under C.P.L.R. § 1602, including but not limited to C.P.L.R. §§ 1602(2), 1602(7).

WHEREFORE, Plaintiff, demands judgment against the respective Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be provided at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; extent permitted by law;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

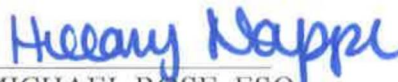
JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: New York, New York
December 5, 2019

Respectfully Submitted,

HACH ROSE SCHIRIPPA & CHEVERIE, LLP



MICHAEL ROSE, ESQ.
HILLARY M. NAPPI, ESQ.
112 Madison Avenue, 10th Floor
New York, New York 10016
(212)213-8311

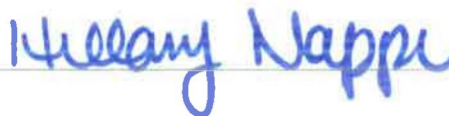
Attorneys for Plaintiff Lydia Herbert

ATTORNEY VERIFICATION

HILLARY NAPPI, an attorney duly admitted and licensed to practice law in the courts of the State of New York, hereby affirms, pursuant to CPLR ¶ 2106, states under the penalty of perjury, as follows:

I am an associate at Hach Rose Schirripa & Cheverie LLP, attorneys for the Plaintiff herein, and as such, fully familiar with all the facts and circumstances heretofore stated herein by reason of a file maintained in our office located at 112 Madison Avenue, 10th floor, New York, New York 10016; I have read the foregoing Complaint, and the same is true to our own knowledge, except as to the matters therein stated to be alleged upon information and belief and, as to those matters, we believe them to be true; and that this verification is being made by us because the Plaintiff does not reside within New York County wherein our office is located.

Dated: December 5, 2019
New York, New York

A handwritten signature in blue ink that reads "Hillary Nappi". The signature is written in a cursive style and is positioned above a horizontal line.